

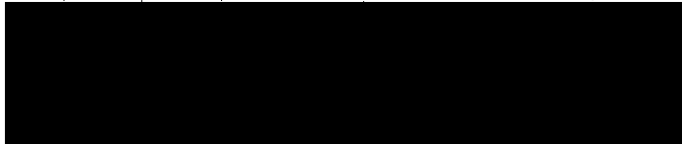


U.S. Department of Justice

Immigration and Naturalization Service

CI

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: EAC-98-004-54382

Office: Vermont Service Center

Date:

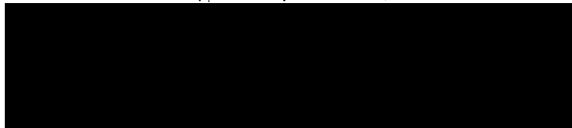
IN RE: Petitioner:
Beneficiary:



DEC 8 2000

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act; 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER:



Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

Identifying data removed to
prevent clearly unwarranted
invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center, and a subsequent appeal was rejected by the Associate Commissioner for Examinations. The matter came before the Associate Commissioner on a motion to reopen. The motion was dismissed. The matter is again before the Associate Commissioner on a motion to reopen. The motion will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as Acting Assisting Pastor and Coordinator of the Bible Study and Men's Fellowship Ministry. The director denied the petition determining that the petitioner had failed to establish that the proffered position constituted a qualifying religious vocation or occupation. The director also found that the petitioner had failed to establish the beneficiary's two years of continuous religious work experience or that it had the ability to pay the proffered wage. The Associate Commissioner found that the appeal had been filed by the beneficiary, and rejected the appeal.

On motion filed December 28, 1999, counsel stated that "the petitioner in this matter would like the opportunity to explain the reason for such filing." Counsel did not submit any additional explanation or documentation. The Associate Commissioner dismissed that motion finding that it did not meet applicable requirements.

On motion filed September 18, 2000, counsel requested "that the case be given additional time to support the motion."

8 C.F.R. 103.5(a)(1)(i) requires that any motion to reopen or reconsider must be filed by the petitioner within 30 days of the decision that the motion seeks to reopen or reconsider.

The previous motion was dismissed in a decision dated June 29, 2000. The petitioner filed the instant motion on September 18, 2000. The respondent's motion was untimely filed and will be dismissed.

In addition, according to 8 C.F.R. 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. 8 C.F.R. 103.5(a)(4) further states that a motion that does not meet applicable requirements shall be dismissed.

The petitioner's motion fails to present any new facts to be considered, and fails to identify any incorrect application of law supported by pertinent precedent decisions. Even were the motion timely filed, it would be dismissed as failing to meet applicable requirements of a proper motion.

ORDER: The motion is dismissed.